Filed 3/11/20 P. v. Superior Court (D.C.) CA4/2
See concurring and dissenting opinions.

NOT TO BE PUBLISHED IN OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION TWO

THE PEOPLE, Petitioner, v. THE SUPERIOR COURT OF SAN BERNARDINO COUNTY, Respondent; D.C., Real Party in Interest.	E073283 (Super.Ct.No. J279005) OPINION

ORIGINAL PROCEEDINGS; petition for extraordinary writ. Raymond L. Haight III, Judge. Petition denied.

Jason Anderson, District Attorney, and Brent J. Schultze, Deputy District Attorney, for Petitioner.

No appearance for Respondent.

Melcher & Melcher and William Paul Melcher for Real Party in Interest.

Petitioner, the People of the State of California, filed their petition for writ of mandate on July 26, 2019 (petition) requesting that this court command the juvenile court to conduct a hearing on its request for transfer of real party in interest, D.C., to be tried in adult court on the charge of murder and other enhancements committed when he was 15 years old.

In 2016, the electorate passed The Public Safety and Rehabilitation Act of 2016 (Proposition 57) which permitted the transfer of minors who commit certain crimes if aged 14 and 15 within the juvenile court's discretion. Senate Bill No. 1391 (2017-2018 Reg. Sess.) (SB 1391), effective January 1, 2019, eliminated the ability of juvenile courts to transfer minors under the age of 16 to adult court with one exception not relevant here. The juvenile court denied the request to conduct the transfer hearing finding that SB 1391 eliminates the ability of juvenile courts to transfer minors who commit crimes, including murder, when they are under the age of 16, and that SB 1391 properly amended Proposition 57. In their petition, the People contend SB 1391 is unconstitutional because it improperly amends Proposition 57 and is not consistent with its purpose.

The constitutionality of SB 1391 is currently on review in the California Supreme Court in *O.G. v. Superior Court* (2019) 40 Cal.App.5th 626, review granted November 26, 2019, S259011, a case in which the appellate court found SB 1391 was unconstitutional. Another appellate panel in this division in *B.M. v. Superior Court* (2019) 40 Cal.App.5th 742 (*B.M.*), review granted on January 2, 2020, S259030, pending

consideration and disposition of *O.G.*, has found SB 1391 constitutional.[1] (See also *People v. Superior Court (T.D.)* (2019) 38 Cal.App.5th 360, review granted November 26, 2019, S257980 [SB 1391 constitutional]; accord *People v. Superior Court (I.R.)* (2019) 38 Cal.App.5th 383, review granted November 26, 2019, S257773; *People v. Superior Court (K.L.)* (2019) 36 Cal.App.5th 529 (*K.L.*); *People v. Superior Court (Alexander C.)* (2019) 34 Cal.App.5th 994.) We follow the reasoning in *B.M.* and conclude that SB 1391 is constitutional and deny the petition.

FACTUAL AND PROCEDURAL BACKGROUND

On July 5, 2019, the People filed a juvenile wardship petition pursuant to Welfare and Institutions Code section 602, subdivision (a), charging D.C. with a violation of Penal Code section 187, subdivision (a). In addition, he was charged with personally and intentionally discharging a firearm within the meaning of Penal Code section 12022.53, subdivisions (b) and (d), and that the crime was committed on behalf of and at the direction of a criminal street gang within the meaning of Penal Code section 186.22, subdivision (b)(1)(C). D.C. was already on probation when he was observed on video surveillance on June 10, 2019, when he was 15 years old, shooting the victim who subsequently died. The People requested a transfer hearing in order for the juvenile court to determine if D.C. should be tried in adult criminal court.

D.C.'s counsel filed opposition to the transfer hearing. The People filed a brief contending that SB 1391 was unconstitutional. The juvenile court denied the motion for

[1] Despite the granting of review, such opinion can be cited. (Cal. Rules of Court, rules 8.1105 and 8.1115.)

transfer finding SB 1391 constitutional, and stayed the matter pending the People filing a petition for writ of mandate. The People filed their petition, and on July 26, 2019, we issued an immediate stay of the juvenile court proceedings. The People belatedly served the Attorney General with the petition and he did not request to intervene.

DISCUSSION

The People insist that the voters intended in Proposition 57 that minors aged 14 and 15 be eligible for transfer for prosecution in adult court and gave juvenile courts the discretion to determine eligibility. They contend that SB 1391's elimination of this eligibility to transfer not only is inconsistent with the plain language of Proposition 57, but is in direct contradiction with the purpose of Proposition 57. As such, SB 1391 was unconstitutional.

"Under long-standing principles, a statute, once enacted, is presumed to be constitutional until it has been judicially determined to be unconstitutional." (*Lockyer v. City of and County of San Francisco* (2004) 33 Cal.4th 1055, 1119.) "Statutes must be upheld unless their unconstitutionality clearly, positively and unmistakably appears." (*In re Dennis M.* (1969) 70 Cal.2d 444, 453.)

In 2000, the voters enacted Proposition 21, "The Gang Violence and Juvenile Crime Prevention Act of 1998," which extended direct filing in criminal court at the discretion of the district attorney for minors who committed certain crimes while aged 14 or 15 years old. (*Manduley v. Superior Court* (2002) 27 Cal.4th 537, 544, 549-550.) In 2016, the voters passed Proposition 57, which provides that a minor aged 14 or 15 years old who commits particularly aggravated crimes can be transferred to adult court under

certain circumstances in the discretion of the juvenile court. Proposition 57 essentially eliminated prosecutors' discretion to file these cases directly in adult court and granted such discretion to the juvenile courts to conduct fitness hearings to determine whether certain juveniles (depending on the crimes committed) ages 14 and 15 years old should be tried in adult court. (*People v. Superior Court (Lara)* (2018) 4 Cal.5th 299, 305; *K.L.*, *supra*, 36 Cal.App.5th at p. 537-538.) SB 1391, passed by the Legislature and effective January 1, 2019, raised the age of transfer to 16, eliminating the juvenile court's discretion to transfer 14- and 15-years old offenders to adult court. (*K.L.*, at p. 538.)

Proposition 57 provides that the act "shall be broadly construed to accomplish its purposes," and authorizes legislative amendments that are "consistent with and further [its] intent." (Voter Information Guide, Gen. Elec. (Nov. 8, 2016) (Ballot Pamp.) text of Prop. 57, § 5, p. 145.)

In *B.M.*, the court reviewed the history and purposes of Proposition 57, and found SB 1391 was "precisely the type of rehabilitation-based legislation the voters had in mind when they allowed for future amendments." (*B.M.*, *supra*, 40 Cal.App.5th at p. 760.) The *B.M.* court noted the five stated purposes of Proposition 57: "1. Protect and enhance public safety. [¶] 2. Save money by reducing wasteful spending on prisons. [¶] 3. Prevent federal courts from indiscriminately releasing prisoners. [¶] 4. Stop the revolving door of crime by emphasizing rehabilitation, especially for juveniles. [¶] 5. Require a judge, not a prosecutor, to decide whether juveniles should be tried in adult court." (*B.M.*, *supra*, 40 Cal.App.5th at p. 754.)

Initially, the People's claim that SB 1391 conflicts with the plain language of Proposition 57 requiring that juvenile courts make the decision as to whether minors aged 14 and 15 are eligible for transfer to adult court, has been rejected as dispositive on the constitutional claim. "Proposition 57 does not state as its specific intent that minors aged 14 or 15 be subject to prosecution in criminal court. Rather, the language used in the stated purpose of Proposition 57, which petitioner asserts is contravened by S.B. 1391, is to have a 'judge, not a prosecutor, . . . decide whether juveniles should be tried in adult court.' This language does not suggest a focus on retaining the ability to charge juveniles in adult court so much as removing the discretion of district attorneys to make that decision. This interpretation of the language, which inherently reduces the number of juveniles tried in adult court, is supported by other explicit statements of intent to 'reduc[e] wasteful spending on prisons,' '[p]revent federal courts from indiscriminately releasing prisoners' and to 'emphasiz[e] rehabilitation, especially for juveniles' [Citation.] That said, as the plain language of Proposition 57 is not decisive on the issue, we turn to other indicia to discern the voters' intent on this subject." (*K.L.*, *supra*, 36 Cal.App.5th at pp. 539-540.)

In *B.M.*, the court considered all five factors in finding SB 1391 was a proper amendment to Proposition 57. First, it addressed the purpose of stopping the revolving door of crime for juveniles by emphasizing rehabilitation. The court found, "Proposition 57 furthers this aim by repealing the practice of prosecutorial direct filing, thereby 'broaden[ing] the number of minors who could potentially stay within the juvenile justice system, *with its primary emphasis on rehabilitation rather than punishment*.' " (*B.M.*,

supra, 40 Cal.App.5th at p. 755.) SB 1391 expanded this protection and furthers the goal of youth rehabilitation by shielding all 14 and 15 years old from criminal court, keeping them in juvenile court where they are afforded rehabilitation services. (*Ibid.*)

In addition, the appellate panel found that SB 1391 furthered the goal of reducing prison spending, "because SB 1391 will necessarily result in fewer juveniles being transferred to the criminal justice system, it will result in a reduction of prison spending, and therefore advances this intent as well." (*B.M.*, *supra*, 40 Cal.App.5th at p. 755.)

The *B.M.* court also noted that SB 1391 furthered Proposition 57's goal of enhancing public safety. It concluded, "SB 1391 can easily be construed to promote public safety and reduce crime, since it increases the number of youth offenders who will remain in the juvenile justice system and avoid prison where the chance of recidivism is higher. What's more, SB 1391 leaves intact prosecutors' ability to petition the juvenile court to extend its jurisdiction if discharging a juvenile offender 'would be physically dangerous to the public because of the person's mental or physical deficiency, disorder, or abnormality that causes the person to have serious difficulty controlling his or her dangerous behavior.' ([Welfare & Inst. Code,] § 1800, subd. (a).) This provision recognizes that not every juvenile offender will be successfully rehabilitated and creates a safety valve for circumstances where an offender remains dangerous." (*Id.* at p. 756.)

Finally, the *B.M.* court found that SB 1391 actually furthered the intent of Proposition 57 by continuing to restrict a prosecutor's discretion to charge a juvenile as an adult. "SB 1391 maintains the transfer hearing requirement and places a further limit on prosecutorial discretion—it prohibits district attorneys from even requesting to

transfer 14 and 15 year olds to criminal court. Both laws evince a re-evaluation of the tough-on-crime philosophy underlying Proposition 21 and a desire to return California's treatment of youth offenders to where it had been before that initiative. Proposition 57 repealed the practice of direct filing and re-established the former rule that all minors are entitled to a judicial determination of unfitness before they can be transferred to criminal court. SB 1391 continues in the same direction of youth justice reform, resetting the minimum transfer age to 16, where it had been for decades before Proposition 21." (*B.M., supra,* 40 Cal.App.5th at pp. 756-757.)

SB 1391 is a proper amendment to Proposition 57; it is not unconstitutional. Since D.C. was only 15 years old when he committed the charged crime, the juvenile court properly denied the People's request to transfer D.C. to adult criminal court.

DISPOSITION

The People's petition for writ of mandate is denied. The stay issued by this court on July 26, 2019, is DISSOLVED.

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MILLER
J.

I concur:

RAPHAEL
J.

[E073283, *The People v. The Superior Court of San Bernardino County; D.C.*]

RAPHAEL, J., Concurring.

The voters enacted statutory provisions through Proposition 57, but they simultaneously granted the Legislature the power to amend those provisions consistently with the electorate's intent. Underlying this case is how courts should interpret the limits on that amendment power. What sort of amendments are permissible and which are not?

I join today's opinion. But I write separately because it seems to me that a first step should precede the opinion's interpretive approach.

In my view, we must first determine which provisions are subject to amendment and which are unalterable. On the one hand, there must be some substantial provisions that may be amended; otherwise, the grant of amending power to the Legislature would have little effect. On the other hand, there must be some sacrosanct provision or provisions. Otherwise, the Act would have been written, as it were, in disappearing ink. The Legislature could amend and leave nothing of the words the voters enacted.

As a second step, and only if we determine that the Legislature amended a provision that the voters did not intend to set in stone, we must determine whether the legislation amended that provision consistently with the voters' intent. That second step is the analysis performed by *B.M. v. Superior Court* (2019) 40 Cal.App.5th 742 and which we follow today.[1]

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[1] This two-step analysis of the electorate's delegation to the legislature is analogous to the manner in which courts analyze legislative delegation to administrative agencies. The first step of such an inquiry is whether the legislature "has directly spoken

[footnote continued on next page]

Skipping the first step and simply asking if the Legislature's amendment accords with the voters' general purposes does not lead us astray here. But it leaves it unclear what the central unalterable feature (or features) of a Proposition are and thereby could lead courts to the wrong conclusion for two reasons. First, by failing to identify the voters' central purpose, it could allow the Legislature to eliminate provisions that the voters meant to remain untouched. Conversely, it could interfere with the authority that the voters gave to the Legislature to amend other provisions, as the courts treat the entire text of the Proposition as uniformly important to the electorate.

I

When the voters in 2016 passed the Public Safety and Rehabilitation Act (the Act, or Proposition 57), they enacted two substantive provisions concerning juveniles. First, the Act enacted a new section 602 of the Welfare and Institutions Code (section 602), replacing the old one, and placing all accused juveniles in the jurisdiction of the juvenile court. (Voter Information Guide, Gen. Elec. (Nov. 8, 2016) text of Prop. 57, § 5, pp. 141-142) (Ballot Pamp.).) The Act thereby eliminated two then-existing ways in which juveniles could be tried in adult court: (a) automatically for a few specified very serious crimes and (b) through "direct filing" by the district attorney for a broader list of crimes.

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to the precise question at issue" and, if so, "that is the end of the matter." (*Chevron, U.S.A., v. Natural Res. Def. Council* (1984) 467 U.S. 837, 842.) If the legislature has not directly spoken to the matter, it has delegated authority to the agency, and the question for the courts is the deferential one of whether the agency has made a "reasonable policy choice." (*Ibid*. at pp. 843-845; see also *Green v. Ralee Engineering Co.* (1998) 19 Cal.4th 66, 82.)

Second, the Act deleted much of section 707, subdivision (b) of the Welfare and Institutions Code (section 707(b)), but left in place a list of 30 categories of offense that potentially could serve as a predicate for a juvenile to be tried in adult court. (Ballot Pamp, *supra*, at pp. 143-144.) Both after and before Proposition 57, those crimes could serve as the basis for a motion made by the District Attorney to transfer a 14- or 15-year-old accused juvenile to adult court, while any felony could be the predicate for a motion made as to a juvenile who is 16 or 17. The difference with prior law was that, under Proposition 57, the exclusive means of transferring a juvenile would now be through a judicial decision based on a district attorney motion.

Taken alone, the enacted text reveals little about how to reconcile it with the voters' separate provision granting the Legislature authority to amend the Act consistent with the voters' intent. However, upon considering (a) the changes that the voters made to existing law, (b) the articulated purpose and intent of the Act, (c) the Legislative Analyst's analysis for the voters, and (d) the voters' guide arguments, it becomes clear that one provision was meant to be untouchable. The sacrosanct juvenile provision in Proposition 57 eliminated "automatic" adult court charges and district attorney "direct filing" for other charges, allowing juveniles to be tried in adult court only after a judicial determination. The voters etched that provision permanently into law in 2016 (at least absent a later initiative). The Legislature cannot, consistently with the voters' intent, bring back those repudiated methods of transfer. But the other substantive provision—the offenses that can be predicates for transferring a 14- or 15-year-old juvenile to adult court—can be altered by the amendment power that the voters granted to the Legislature.

A

Four considerations indicate that elimination of direct placement of juveniles in adult court is a feature of Proposition 57 that is not subject to amendment.

First, it is highly significant that Proposition 57 struck the previous automatic and direct filing provisions of law formerly in section 602 and superseded them with a new section 602 that does not allow for those methods of adult court jurisdiction. (E.g., *People v. Barnes* (1986) 42 Cal.3d 284, 295 [deletion of an express provision of a statute ordinarily indicates the intention to work a substantial change in the law].)

Second, Proposition 57 articulated that the "purpose and intent" of the Act was to do five things, one of which was to eliminate direct filing by District Attorneys: "Require a judge, not a prosecutor, to decide whether juveniles should be tried in adult court." (Ballot Pamp, *supra*, at p. 141.)

Third, in its summary at the outset of its analysis for the voters, the Legislative Analyst highlighted that Proposition 57 provides that "juvenile court judges shall make determination, upon prosecutor motion" whether juveniles should be tried as adults. (Ballot Pamp, *supra*, at p. 54.) In its more extensive analysis, the Analyst explained as background the ways in which juveniles are sent to adult court under existing law, and some statistics concerning how many are sent each way. Then, its analysis of the juvenile provisions of the proposal was a single paragraph entitled "Juvenile Transfer Hearings," which is consistent with viewing the central feature of Proposition 57 as requiring a judicial determination of the way in which juveniles get to adult court. (Ballot Pamp, *supra*, at p. 56.) In that paragraph, the Analyst explained that the measure

changes the law such that the exclusive way in which a juvenile gets to adult court is through a judge's decision at a hearing, eliminating the possibility that a juvenile can be tried in adult court based on only a prosecutor's decision.

Fourth, the voter guide argument in favor of the Proposition highlighted that it "[r]equires judges instead of prosecutors" to decide whether minors should be treated as an adult. (Ballot Pamp, *supra*, at p. 58.) (The opposition arguments and rebuttal arguments focused only on the Proposition's adult parole changes.)

For these reasons, direct filing of juvenile cases in adult court is a feature of Proposition 57 that cannot be eliminated consistently with the voters' intent.

B

The opposite of the considerations in the previous section indicate that the provision containing a list of predicate offenses for which juveniles can be tried as adults is subject to the amendment power that the voters granted the Legislature.

First, it is significant that the list of 30 categories of predicate offenses in section 707(b) was simply left unchanged by Proposition 57. (E.g., *People v. Cooper* (2002) 27 Cal.4th 38, 43, fn. 4 [voter amendments that did not substantively change legislation did not reenact it]; *In re Lance W.* (1985) 37 Cal.3d 873, 895 [portions of a statute that are not amended are not considered to have been reenacted].) Both before and after Proposition 57, those crimes could provide the basis for a juvenile who is 14 or 15 to be tried in adult court. The change that Proposition 57 worked on prior law is that a judicial determination is the exclusive means for a transfer.

Second, Proposition 57's five items articulating the "purpose and intent" of the measure include no indication that maintaining any portion of the list of predicate offenses is essential. (See Ballot Pamp, *supra*, at p. 141.)

Third, the Legislative Analyst mentioned the list of offenses in a manner that made them collateral to the central point of Proposition 57 of having judges (rather than prosecutors) decide the location for the trial of juveniles. It referred to the predicate offenses generally as the "specified offenses" that remained the basis for prosecution motions for adult treatment of juveniles. (Ballot Pamp, *supra*, at p. 54.) It put those offenses in the context of what remained of the juvenile transfer process after it was reduced by Proposition 57, i.e., that "prosecutors can only seek transfer hearings for . . . certain significant crimes listed in state law (such as murder, robbery, and certain sex offenses) . . . ." (*Id.*, p. 56.) It followed that statement with the claim that "[a]s a result of these provisions, there would be fewer youths tried in adult court." (*Ibid.*) This further indicates that the particular bases for transfer were simply being left alone by Proposition 57, rather than rendered inviolate.

Fourth, the voters' guide arguments concerning Proposition 57 did not address which juvenile cases can be potentially tried in adult court. (See Ballot Pamp, *supra*, at pp. 58-59.)

For these reasons, the list of predicate offenses is subject to the amendment power that the voters gave the Legislature. If Proposition 57 had been meant to enact and render unalterable only the requirement of a judicial transfer hearing and nothing else, it would have been drafted exactly the way it was. This does not mean that the voters intended

that the list of predicate offenses in section 707(b) would in fact be amended. It simply means that, where voters expressly granted the Legislature amendment power, there is no reason to conclude that they excluded that provision from it by freezing it into law.

C

Senate Bill No. 1391 (2017-2018 Reg. Sess.) (Sen. No. 1391), effective January 1, 2019, eliminated the ability to transfer to adult court a minor who committed an offense at age 14 or 15. It essentially abrogated the entire list of predicate offenses for juveniles of those ages. While it technically kept the list of 30 predicate offenses in section 707(b), they remain meaningful for only the relatively rare situation of a minor who commits an offense at age 14 or 15 but is not apprehended until reaching adulthood.

In my view, the first and most important step in determining the constitutionality of Sen. No. 1391 is the conclusion above that the list of predicate offenses is subject to legislative amendment. That conclusion means the provision may be changed pursuant to the amendment power that Proposition 57 gave the Legislature, rather than wholly prohibited because it is contrary to the intent of the voters in Proposition 57.

We must then engage in a second step to determine whether the particular legislation that changed the provision is consistent with the intent of the voters. Sen. No. 1391 readily survives this analysis, as our opinion today concludes. Most of Proposition 57's purposes are quite general—public safety; saving money on prisons; rehabilitation of juveniles. And we must defer to the Legislature's policy determination in how those purposes are applied together. Due to the combination of malleable factors and judicial deference, I find it hard to imagine a realistic amendment to the list of predicate offenses

that would *not* properly survive judicial scrutiny. For example, it seems to me that—even after Sen. No. 1391—the Legislature may re-enact one or more of the predicate crimes for those aged 14 or 15—for example, allowing District Attorneys to move to transfer those juveniles in cases of murder—and such legislation likely would be constitutional, so long as the Legislature concluded that its view of considerations such as public safety and prison spending warranted such a change.

Allowing the Legislature to change the section 707(b) predicate offenses might raise no eyebrows if the Legislature had passed a modest amendment to the list, for example by eliminating drug offenses involving amounts as small as a half-ounce of a controlled substance (§ 707(b)(20)), or the offense of escape (§ 707(b)(22)). The difference here is that Sen. No. 1391 wrought a bigger change by essentially eliminating all the predicate offenses for juveniles aged 14 and 15. But once we recognize that the voters did not mean to bind the Legislature to the precise list of 30 predicate crimes in section 707(b), I do not think the constitutionality of an amendment can turn on the difference between small changes to that section (eliminating a few predicate crimes) and big changes (eliminating them all). This is why a first step in the analysis—determining whether a provision of law enacted by a Proposition can be amended at all—may be the most important.

II

The harm of not engaging in that first step, it seems to me, is that it results in a lack of clarity in the law that could lead us astray. If the constitutionality of legislation turns merely on judicial consideration of whether that legislation accords with malleable

purposes articulated by the voters in a Proposition, the line between permissible and impermissible legislation is less clear than if the central, unalterable features of that Proposition are first identified. Skipping the first step could lead to two types of error.

On the one hand, at least in most voter enactments, some provision (or provisions) likely were intended to be unalterable. If we simply proceed to considering whether legislation reflects the general purposes and intentions of the Proposition (here, matters such as public safety, rehabilitation, and saving money) we run the risk of allowing the Legislature to overwrite a provision that, analyzed on its own, was the central feature of the voters' law. What would we do if a future Legislature enacted legislation allowing prosecutors to file juvenile murder cases directly in adult court? In such a circumstance, we should invalidate the legislation even if the Legislature duly considered and balanced the purposes and intentions articulated by Proposition 57 (for example, finding public safety warranted the change), and regardless of whether we agree or disagree with the Legislature's policy determination. We should do so because the legislation contravenes a feature of the law enacted by Proposition 57 that is unalterable except by the voters.

On the other hand, as to provisions that may be amended, we need to ensure that the Legislature maintains the policy authority that Proposition 57 grants it. If we fail to identify the unamendable provisions that the voters deemed central, we may treat the entire text of the Proposition as uniformly sacred and stifle that authority by considering too much of it, and even all of it, unalterable. The court in *O.G. v. Superior Court* (2019) 40 Cal.App.5th 626, 630, seems to do just that, indicating that legislation is impermissible if it authorizes (or prohibits) anything that the text of Proposition 57 does

not. It is hard to see what is left of the Proposition's grant of amending authority with that approach. The attraction of *O.G.* is that it gives fixed meaning to what the voters enacted, as, after all, the voters certainly meant their measure to accomplish something permanent. In contrast, focusing only on what I see as the second step in the analysis might give the impression that everything the voters enacted is potentially up for grabs. But if we engage in what I see as the first step in the analysis, we both give a proper fixed meaning to the codified provisions of Proposition 57, and we also give meaning to the uncodified portion of its Section 5 that provides that it "may be amended so long as such amendments are consistent with and further the intent of this act." (Ballot Pamp, *supra*, at p. 145.)

RAPHAEL

J.

[E073283, *The People v. The Superior Court of San Bernardino County; D.C.*]

RAMIREZ, P.J.

I respectfully dissent for the reasons stated in *O.G. v. Superior Court* (2019) 40 Cal.App.5th 626, 628, rev. granted Nov. 26, 2019; *B.M. v. Superior Court* (2019) 40 Cal.App.5th 742, 761-771 [dis. opn. of McKinster, J.], rev. granted Jan. 2, 2020; *People v. Superior Court* (*S.L.*) (2019) 40 Cal.App.5th 114, 123-125 [dis. opn. of Grover, J.], rev. granted Nov. 26, 2019; and *People v. Superior Court* (*T.D.*) (2019) 38 Cal.App.5th 360, 378-382 [dis. opn. of Poochigian, Acting P. J.], rev. granted Nov. 26, 2019.

RAMIREZ

P. J.